

### REMARKS

The application has been reviewed in light of the outstanding Office Action dated October 31, 2003. Claims 1-13, 15-23, 24 and 44-59 are currently pending. Claims 14 and renumbered claims 25-43 have been canceled without prejudice and/or disclaimer of subject matter. Claims 1, 10, 15, 19 and 22 have been amended. Claims 44-59 have been added, and claims 1, 19 and 44 are independent. Each of the points raised in the outstanding Action are addressed below.

#### *Renumbered Claims*

Applicants wish to thank the Examiner for the correction of the numbering of the original claims. Accordingly, the claims as set out in the present amendment are properly numbered.

#### *Added Claims*

Applicants have added new claims 44 which are directed to a computer server having one or more programs operational thereon for performing all or a portion of an offer and acceptance method, and include similar feature as recited in the original claims as amended. Support for the new claims can be found throughout the application. No new matter has been added.

#### *Allowable Claims*

Applicants wish to thank the Examiner for the indication that claim 9 and renumbered claim 36 are allowable if rewritten in independent form. Applicants have not pursued such a course of action in the present response. Rather, Applicant has provided claim amendments to the base independent claim which distinguish that claim from the prior art.

*Objections/Rejections of Renumbered Claims 25-43*

Renumbered claims 25-43 were objected to for the informalities noted on page 2 of the Action, and rejected under 35 U.S.C. §101 as set out on page 3 of the Action. Since Applicants have canceled these claims, the objection and rejection are now moot and thus, Applicants respectfully request that each be withdrawn.

*Prior Art Rejection of The Claims*

Claims 1-3, 14, 15, 19 and 22 were rejection under §102 as being anticipated by U.S. patent no. 6,285,958 (Horstmann), and the remainder of the claims were rejected under §103 as being obvious under Horstmann in view of U.S. patent no. 6,138,105 (Walker et al.). For the following reasons, Applicants submit that the claimed invention is patentable over the cited art.

Amended independent claim 1 is directed to an offer and acceptance method including dynamically generating an offer for a product and/or service based on a revenue management policy, where the product and/or service is at least one of a perishable product and/or service and an underutilized product and/or service. The method also includes pushing the offer to a customer via a wireless mobile device. Independent claims 19 and 44 recite the same patentable features.

In the present invention, vendors can utilize wireless mobile devices for pushing (or pulling) offers to customers for products and services which go unused (for example). For example, the vendor may be an airline who generates an offer for a coach seat on a flight which is scheduled to depart within a predetermined time period (e.g., hours prior to the departure time of the flight). Accordingly, the service is perishable as it will no longer be available after the departure of the flight and, moreover, the product/service is underutilized (seats available). The offer is provided via a wireless mobile device since such device (e.g., mobile phones) are generally with the customer. Based on a revenue management policy, the offer may be for a substantial discount (for example) to the regular cost of the seat due to the perishable nature of the product/service.

As understood by Applicants, Horstmann is directed to advertising-subsidized and advertising-enabled software, which provides a mechanism to present advertisements through a software program. User information may be sent to an advertisement server, and comprises the category of software program in which the ad was presented, and the user's usage of the program. Policies on the nature of the information to be sent to the advertisement server and internet connection information, may be controlled by a software developer using the disclosed system.

As also understood by Applicants, Walker et al. is directed to a system and method for dynamic assembly of packages in retail environments. Specifically, the reference appears to disclose that complementary products may be bundled together, and a package price determined for the items for a predetermined time period.

Applicants could find nothing in either of the references, when taken alone or in combination, that discloses, teaches or suggests the presently claimed invention. Specifically, neither reference alone or in combinations discloses, teaches or suggests dynamically generating an offer for a product and/or service based on a revenue management policy, where the product and/or service is at least one of a perishable product and/or service and an underutilized product and/or service. Moreover, neither reference discloses, teaches or suggests pushing the offer to a customer via a wireless mobile device.

For at least those reasons, the claimed invention is patentable over the cited art. Since the remainder of the claims are each dependent from one or another of the independent claims 1, 19 and 44, those claims necessarily incorporate by reference the features recited therein. Thus, the dependent claims are patentable for the same reasons as stated above.

CONCLUSION

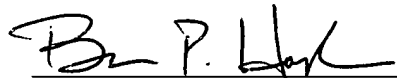
In view of the foregoing remarks, Applicants submit that all the issues raised in the outstanding Action have all been addressed. Accordingly, Applicant respectfully requests favorable reconsideration and early passage to issue of the present application.

No fee is currently due for the present response. However, in the event that it is determined that additional fees are due, the Commissioner is hereby authorized to charge the undersigned's Deposit Account No. 50-0311.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 935-3000. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

Date: February 2, 2004



Brian P. Hopkins, Reg. No. 42,669  
Attorney for Applicants

Mintz Levin Cohn Ferris  
Glovsky & Popeo, P.C.  
Chrysler Center  
666 Third Avenue, 24<sup>th</sup> Floor  
New York, New York 10017  
Tel: (212) 935-3000  
Fax: (212) 983-3115